

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

FRANK MAY

13316 Southview Avenue
Cleveland, Ohio 44120

Plaintiff,

V.

PROCOLLECT, INC.

c/o CT Corporation System,
1300 East 9th Street
Cleveland, Ohio 44114

Defendant.

) Case No: 1:14-cv-387
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) JURY DEMAND REQUESTED
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) **CIVIL COMPLAINT**
) **(Unlawful Debt Collection Practices)**
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COMPLAINT

PLAINTIFF, Frank May (Plaintiff), by his attorneys, KAHN AND ASSOCIATES, L.L.C., alleges the following against DEFENDANT, Procollect Inc. (Defendant):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, *15 U.S.C. 1692 et seq.* (FDCPA).

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and *28 U.S.C. 1367* grants this court supplemental jurisdiction over the state claims contained therein.
3. Because Defendant conducts business in Ohio, personal jurisdiction is established.

4. Venue is proper pursuant to 28 *U.S.C. 1391(b)(2)*.

PARTIES

5. Plaintiff is a natural person who resides in the City of Cleveland, Cuyahoga County, Ohio and is allegedly obligated to pay a debt, and Plaintiff is a “consumer” as that term is defined by 15 *U.S.C. 1692a(3)*.
6. Pursuant to the definitions outlined in 15 *U.S.C. 1692a(1-6)*, Defendant is a debt collector and sought to collect a consumer debt from Plaintiff which was allegedly due and owing from Plaintiff, and Plaintiff is a consumer debtor.
7. Defendant is a Texas corporation and debt collector with an office in Dallas, Texas.
8. Defendant uses instrumentalities of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another and is a "debt collector" as that term is defined by 15 *U.S.C. § 1692a(6)*.
9. Defendant is a collection agency that in the ordinary course of business, regularly, on behalf of itself or others, engages in debt collection.

FACTUAL ALLEGATIONS

10. Defendant is seeking to collect an allegedly due and owed consumer debt incurred for personal, family, or household purposes.
11. Defendant places collection calls to Plaintiff at telephone number 216.991.5646.

12. Plaintiff has told Defendant to stop calling, yet Defendant continues to call Plaintiff on a daily basis, and sometimes up to twice in the same day, for the purposes of annoying or harassing him.
13. On or about June 22, 2013, Plaintiff sent Defendant a written request for validation and a request that Defendant cease and desist further contact with him.
14. Despite this written request, Defendant has continued to place collection calls to Plaintiff.

COUNT I

DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

15. Defendant violated the FDCPA based on the following:
 - a. Defendant violated §1692c(c) by failing to cease further communications with the consumer after being notified in writing that the consumer refuses to pay the debt or that the consumer wishes the debt collector to cease further communication.
 - b. Defendant violated §1692d by engaging in conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.
 - c. Defendant violated §1692d(5) by causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.
 - d. Defendant violated §1692f by using any unfair or unconscionable means to collect or attempt to collect a debt.

WHEREFORE, Plaintiff, Frank May, respectfully requests judgment be entered against Defendant, for the following:

16. Statutory damages of \$1000.00 pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*,
17. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*
18. Any other relief that this Honorable Court deems appropriate.

DEMAND FOR JURY TRIAL

Plaintiff, Frank May, requests a jury trial in this case.

RESPECTFULLY SUBMITTED,

KAHN & ASSOCIATES, L.L.C.

/s/ J. Daniel Scharville

J. DANIEL SCHARVILLE (0071132)

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